

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Evansdale Branch		Docket No. A2011-103
Evansdale, Iowa		

REPLY BRIEF OF PETITIONER CHAD DEUTSCH

(December 19, 2011)

Respectfully submitted,

/s/ Elaine Mittleman

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Petitioner Chad Deutsch respectfully submits this Reply Brief. The Comments of the United States Postal Service, filed on December 2, 2011, include a number of statements unsupported by facts in the record. The faulty record indicates that a remand is necessary.

On December 13, 2011, the Postal Service announced that it had agreed to delay the closing or consolidation of any Post Office or mail processing facility until May 15, 2012. *See* Postal News press release, dated December 13, 2011 (attached hereto). This release stated that “Given the Postal Service’s financial situation and the loss of mail volume, the Postal Service must continue to take all steps necessary to reduce costs and increase revenue.”

As the Postal Service noted, in light of its financial situation and the loss of mail volume, the Postal Service must take all steps necessary to increase revenue. However, in spite of the need to increase revenue, the Postal Service is not including revenue calculations or discussions in its final determinations. The decision-making process by the Postal Service for closings is fundamentally flawed by its omission of any analysis of revenues.

The Evansdale Branch is a good example of that omission. The office receipts for the last three years were \$270,763 (706 revenue units) in FY 2008; \$244,212 (637 revenue units) in FY 2009; and \$253,050 (660 revenue units) in FY

2010. Thus, the revenue has been fairly steady and showed an increase from FY 2009 to FY 2010.

The Final Determination should be remanded to permit the Postal Service to include an analysis of revenue. If the Postal Service is taking all steps necessary to increase revenue, a beginning step in post office closings should be the determination of revenue and how it would be affected by closing a facility. Particularly in light of the alternative means of delivery, including the internet, FedEx and UPS, the Postal Service should do as it said ó take all steps necessary to increase revenue. Closing profitable and convenient retail facilities is wholly counterproductive and violates the promise of the Postal Service to work to increase revenues.

The closing of the Evansdale Branch cannot be justified by cost savings. In discussing economic savings concerning employees, the Postal Service stated in its brief at 7 that all positions at the Evansdale Branch are eliminated upon discontinuance. However, that assertion does not support a claim of cost savings. The Post Office Survey states that one career employee will be reassigned. Administrative Record, Item No. 15. The Final Determination states that öAny Employees assigned to this facility will be relocated with the Postal Service.ö Because the employees will be reassigned, there are no employee cost savings.

The Postal Service referred in its brief at 7 to the appeal of closing of the Rosser, Texas Post Office. In that case, the issue involved the status of the former Rosser postmaster. The Commission found that the status of the former Rosser postmaster is not relevant to computing savings. That issue has no bearing on the Evansdale closing. Evansdale is a branch and there is no postmaster.

Moreover, in the Rosser order, the Commission emphasized that it õhas stated on numerous occasions that the Postal Service should not compute savings based on compensation costs that are not eliminated by the discontinuance of an office. *See* Docket No. A2011-23, Rosser Post Office, Rosser, Texas, Order No. 950, Order Affirming Determination, November 4, 2011, at 9. In making its argument in this appeal, the Postal Service referred to the order in the Rosser appeal, but failed to cite the Commissionõs repeated admonition that compensation costs that are not eliminated should not be considered cost savings. The Postal Service has made the same error again by claiming cost savings even though the employees at Evansdale will be reassigned and their positions will not be eliminated.

There is information in the Final Determination that indicates that employee costs may actually increase. In a page that just includes one paragraph (no page number), the determination of economic savings was discussed. The paragraph states that õClerk savings under economic savings incorporates last FY years hours

multiplied and the lowest PTF wage level 6 (as shown on PS form 4920). The figure presented under economic savings on this proposal has been reduced by 25% to accommodate the projected increase in clerk hours at the main post for increased retail and PO Box distribution workload. All other costs will be absorbed into the existing workload.ö

According to this statement, there will be an increase in clerk hours at the main post office. The cost increase for the increase in clerk hours was assumed to be 25% of the figure in the economic savings. Thus, according to the Final Determination, there will be a cost increase, not a cost savings, in employee costs from closing the Evansdale Branch.

In discussing the expected lease cost savings, the Postal Service in its brief at 7 acknowledges that the lease expires on January 31, 2016. However, the Postal Service argues that the lease cost savings will arise from that point forward and perhaps earlier if the Postal Service is able to sublease the property.

The Postal Service should not claim cost savings that begin in 2016. Those cost savings are speculative and do not include other factors which may occur more than four years in the future. Further, the Postal Service indicates that there might be a cost savings earlier than January 31, 2016, if the Postal Service is able to sublease the property. This matter should be remanded so the Postal Service can supplement the record with information about the potential for subleasing the

property. The competency of the Postal Service to achieve cost savings is placed in great doubt in light of the five-year lease. At a minimum, it seems that the Postal Service should have provided some options and discussion about meeting this commitment, rather than just assuming that cost savings begin in 2016.

Commissioner Langley commented on the issue of long-term leases in a recent dissent. She stated that “the current lease does not terminate until April 14, 2018, and does not have a 30-day termination clause. The Postal Service should note that any savings from the lease will not be realized for over six years. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable costs savings and does not overstate savings. I find that the Postal Service’s decision to discontinue operations at the Fishers Landing post office is unsupported by evidence on the record and thus, should be remanded.” See Docket No. A2011-55, Fishers Landing Post Office, Fishers Landing, New York, Order No. 1052, Order Affirming Determination, December 16, 2011, Dissenting Opinion of Commissioner Langley.

It is obvious that the Final Determination in this appeal does not support the cost savings determination. There will be no employee cost savings and there likely will be an increase in costs because of the increase in clerk hours at the main post office. There will be no lease cost savings until 2016. Thus, the closing of the Evansdale Branch produces no cost savings and, in fact, will cause a cost

increase. Moreover, as discussed above, the Evansdale Branch is profitable. The lost revenue from closing the Evansdale Branch makes the determination to close an even greater financial folly.

Chairman Goldway has emphasized in dissenting opinions that “It is not the statutory responsibility of the Postal Regulatory Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.” *See* Docket No. A2011-55, Fishers Landing Post Office, Fishers Landing, New York, Order No. 1052, Order Affirming Determination, December 16, 2011, Dissenting Opinion of Chairman Goldway; Docket No. A2011-57, Ottosen Post Office, Ottosen, Iowa, Order No. 1055, Order Affirming Determination, December 19, 2011, Dissenting Opinion of Chairman Goldway.

One argument supporting a closing may be that a community is in decline. The Postal Service stated in its brief at 5 that the Postal Service had “determined that Evansdale had experienced minimal growth in recent years.” However, the Administrative Record does not support this claim of minimal growth. The Community Survey Sheet includes a question about expected residential, commercial or business growth. That question has the instruction, “Please

document your source.ö No answer is given to that question. Administrative Record, Item No. 16. The Final Determination does not include facts necessary to make a finding about the expected growth of Evansdale.

Further, the Postal Service asserted in its brief at 5 that öthe growth of a community does not depend on the location of a Post Office.ö This is an illogical statement with no support in the record. It is not clear if the statement is trying to claim that a community can grow with or without a post office or if the growth of a community does not depend on where a post office is located. Whatever is the interpretation of the meaning of this sentence, it is wholly speculative and not supported in the record.

In attempting to assert that the issue of profitability is not important in making decisions about closings, the Postal Service relied in its brief at 7-8 on the final determination in the Freehold, New Jersey, appeal. However, that case presented a unique set of circumstances. As a result, the holding in that appeal is not instructive in this case on the question of closing profitable facilities.

In Freehold, the facility was a trailer, which had been established as a ötemporaryö facility about eight years before the proposal to close. The previous CPU had been closed because of financial irregularities. There had been numerous safety and OSHA violations with the trailer. *See* Docket No. A2011-19, Lafayette

Station, Freehold, New Jersey, Notice of United States Postal Service, July 7, 2011, Administrative Record, Item No. 13, p. 1.

Further, the holding in the Order Affirming Determination does not discuss whether the Freehold trailer was profitable. The holding states that the first year's net annual savings is \$15,203. The Commission then found that "the Postal Service has taken economic savings into account." *See* Docket No. A2011-19, Lafayette Station, Freehold, New Jersey, Order No. 912, Order Affirming Determination, October 20, 2011, at 13. This holding does not make any statement concerning profitability. Cost savings do not include a calculation of profits. They only refer to costs that will be saved if a facility is closed. Chairman Goldway noted in her concurrence that a "small investment in upgrading the Freehold trailer could provide a positive return on investment." Concurring Opinion of Chairman Goldway in Order Affirming Determination. Thus, the Freehold, New Jersey, Order cannot support an argument that profitability should not be considered in closing a facility.

For the foregoing reasons, the Postal Service's determination to close the Evansdale, Iowa, Branch should be remanded for further consideration.